

United States District Court  
District of Maine

TRAVIS MCEWEN, individually and on	)	
behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 2:20-cv-00153-LEW
	)	
NATIONAL RIFLE ASSOCIATION	)	
OF AMERICA, et al.	)	
	)	
Defendants.	)	

**Joint Status Report**

In compliance with the Court's February 24, 2022 Order (ECF 90), Plaintiff Travis McEwen and Defendants National Rifle Association of America and InfoCision, Inc., have conferred and agree that the process most likely "to secure the just, speedy, and inexpensive determination" of this action under Fed. R. Civ. P. 1 is for the parties to pursue interlocutory appeals of the Court's rulings on Defendants' motions to dismiss on the following schedule and conditions:

(1) By May 4, 2022, Plaintiff will file an unopposed motion, under Rule 54(b) and possibly 28 U.S.C. § 1292(b), to request certification of the order dismissing counts C through F. To the extent filed under

§ 1292(b), Plaintiff will request that the Court certify for appeal all issues raised by Defendants' motion to dismiss Counts C through F.

(2) By May 4, 2022, Defendants will file an unopposed motion, under 28 U.S.C. § 1292(b), to request certification of the order denying their motion to dismiss Counts A and B, and, specifically, the meaning of “automatic telephone dialing system” under the Telephone Consumer Protection Act, 47 U.S.C. § 227, following the Supreme Court's decision in *Facebook v. Duguid*, 141 S. Ct. 1163 (2021).

(3) Discovery will be stayed in the district court pending resolution of the motions to certify and any appeals arising from those motions.

(4) The parties fully reserve the right to argue on appeal alternative grounds for affirmance that were raised below.

Date: March 16, 2022

Respectfully submitted,

/s/ David G. Webbert  
David G. Webbert  
Johnson, Webbert & Garvan, LLP  
160 Capitol Street, P.O. Box 79  
Augusta, Maine 04332-0079  
Telephone: (207) 623-5110  
Email: dwebbert@work.law

/s/ Kim D. Stephens

Kim D. Stephens, WSBA #11984  
Jason T. Dennett, WSBA #30686  
Kaleigh N. Powell, WSBA #52684  
Tousley Brain Stephens PLLC  
1700 Seventh Avenue, Suite 2200  
Seattle, Washington 98101  
Telephone: (206) 682-5600  
Email: kstephens@tousley.com  
Email: jdennett@tousley.com  
Email: kpowell@tousley.com

Patrick H. Peluso  
Woodrow & Peluso LLC  
3900 East Mexico Avenue, Suite 300  
Denver, Colorado 80210  
Telephone: (720) 213-0676  
Email: ppeluso@woodrowpeluso.com

*Attorneys for Plaintiff and the Putative Class*

/s/ Sam A. Camardo

Sam A. Camardo (pro hac vice)  
Terry M. Brennan (pro hac vice)  
Daniel M. Kavouras (pro hac vice)  
BakerHostetler LLP  
127 Public Square, Suite 2000  
Cleveland, Ohio 44114  
Telephone: (216) 861-7145  
Email: scamardo@bakerlaw.com  
Email: tbrennan@bakerlaw.com  
Email: dkavouras@bakerlaw.com

Patrick Strawbridge  
Maine Bar No. 10024  
Consovoy McCarthy PLLC  
Ten Post Office Square  
8th Floor South PMB #706  
Boston, Massachusetts 02109  
Telephone: (617) 227-0548  
Email: patrick@consovoymccarthy.com

*Attorneys for Defendants NRA and  
InfoCision*

### **Certificate of Service**

I hereby certify that on March 16, 2022, I electronically filed this filing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ David G. Webbert  
David G. Webbert, Esq.  
Johnson, Webbert & Garvan, LLP  
160 Capitol Street, P.O. Box 79  
Augusta, Maine 04332-0079  
(207) 623-5110  
dwebbert@work.law